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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,659	05/01/2006	Emmanouil Domazakis	CFAV-7	8474
53450 7590 11/09/2010 KRIEG DEVAULT LLP ONE INDIANA SQUARE SUITE 2800 INDIANAPOLIS, IN 46204-2079				
EXAMINER STULIL, VERA				
ART UNIT		PAPER NUMBER		
1781				
MAIL DATE		DELIVERY MODE		
11/09/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,659

Applicant(s)

DOMAZAKIS, EMMANOUIL

Examiner

VERA STULII

Art Unit

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/01/2010 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domazakis (U.S. 2003/0049364) in view of Hendricks et al (US 5,053,237) hereinafter Hendricks and Brandt (Marinades 'Meat' Challenges).

Regarding claim 3, Domazakis teaches a method of producing meat-based products, such as cooked pork meats, sausages, and salamis, with direct embodiment of olive oil, which includes the following stages:

- Contacting meat with an appropriate brine, comprising water, salt and seasonings at low temperature (0° C) during mixing in the mixing machine([0038], Claim 1);
- Continuing mixing in the mixing machine until the temperature reaches 2°C ([0038]);

- Insertion of olive oil ([0038]);
- Continuation of mixing with simultaneous application of vacuum "in order to avoid oxidation" the temperature reaches 2 ° C ([0038]);
- Encasing meat with simultaneous application of vacuum and pasteurization ([0038])
- Freezing of the product (Abstract; paragraph [0032]).

In regard to claim 3, Domazakis is silent as to the "entire muscular tissue" meat pieces. Hendricks discloses production of tender, flavorful, and juicy meat cuts without significantly increasing saturated fat content by injecting unsaturated vegetable fats such as olive oil (Abstract, page 5 line 58). Hendricks further discloses difficulties in production of a high quality meat fat and fattening of animals in order to produce higher meat quality (Col. 1 lines 37-1). Hendricks also discloses negative health effects associated with saturated fats consumption and positive health effects associated with unsaturated fats consumption (Col. 2 lines 58-68; Col. 3 lines 1-15). Hendricks discloses that these problems could be solved by injection of olive oil into low grades of beef in order to produce "tender, flavorful, and juicy" meat cuts "without significantly increasing saturated fat content" (Col. 2 lines 56-67). In regard to the "entire muscular tissue" meat pieces, Hendricks discloses rib eye, round and bottom round meat cuts (Col. 9 Table 1). Since both Domazakis and Hendricks disclose multiple nutritional benefits of olive oil and benefits of substitution of animal fat with olive oil ([0001]-[0012], [0015]), one of ordinary skill in the art would have been motivated to modify Domazakis and to employ the process of incorporation of olive oil in the "entire muscular tissue"

meat pieces as disclosed by Hendricks for the benefits as disclosed by Domazakis and Hendricks. One of ordinary skill in the art would have been motivated to do so, in order to produce higher quality "tender, flavorful, and juicy" meat cuts without significantly increasing saturated fat. One of ordinary skill in the art would have been motivated to do so, in order to increase consumption of health-beneficial unsaturated fats.

In regard to claim 3, Domazakis is silent as to the injecting or tumbling of meat. In case of the chopped meat, it is not necessary to employ injecting in order to contact meat with brine, the simple mixing is enough. Brandt discloses that the contact of marinade with meat in order to impart flavor could be performed via injecting (page 4). Brandt discloses marinating/treatment of meat using injectors, tumblers, massagers (page 1). Brandt discloses that "[m]ixing, tumbling and massaging of meat at low temperatures facilitates tenderization through disintegration of the muscle fiber sheath and stretching of the myofibrils" (page 1). Therefore, Brandt discloses addition of various ingredients to the meat by either of mixing, injecting, tumbling or massaging. Hendricks also discloses injecting as a method of introduction of marinade in the whole muscle meat tissue (Abstract). One of ordinary skill in the art would have been motivated to employ alternative method of contacting marinade/brine with meat such as injecting in order to achieve desired level of contact of meat with marinade. One of ordinary skill in the art would have been motivated to do so, since injection of brines/marinades into "entire muscular tissue" meat cuts was a well established practice in the art. Since Brandt discloses that tumbling or injecting are alternative methods of addition of various ingredients to the meat, one of ordinary skill in the art would have

been motivated to modify Domazakis in view Brandt and to employ tumbling or injecting instead of mixing as an alternative technique for addition of various components to the meat as disclosed by Brandt. Since Domazakis discloses addition of marinade and olive oil by mixing, Brandt discloses that mixing, tumbling or injecting as alternative methods of addition of various ingredients to the meat, one of ordinary skill in the art would have been motivated to inject marinade and then further add olive oil by tumbling of meat.

Response to Arguments

The rejection of claim 3 under 35 U.S.C. 112, second paragraph has been withdrawn due to the claim amendments.

Applicant's arguments with respect to the rejection of claim 3 under 35 U.S.C. 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERA STULII whose telephone number is (571)272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vera Stulii/
Examiner, Art Unit 1781

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